RECENT IMPORTANT DECISIONS

ADMIRALTY—WORKMEN'S COMPENSATION—IS A HYDROPLANE A VESSEL?—Claimant was employed in the care and management of a hydroplane which was moored in navigable waters. The hydroplane began to drag anchor and drift toward the beach, where it was in danger of being wrecked. Claimant waded into the water and was struck by the propeller. *Held,* claimant is not entitled to compensation under the Workmen's Compensation Law, since a hydroplane while on navigable waters is a vessel, and therefore the jurisdiction of the admiralty excludes that of the State Industrial Commission. *Reinhardt* v. *Newport Flying Service Corp.* (N. Y., 1921), 133 N. E. 371.

The question to be determined was whether the claimant was injured by a *vessel,* for if he was the jurisdiction of the admiralty excludes the jurisdiction of the commission. *Knickerbocker Ice Co.* v. *Stewart,* 253 U. S. 149. The court, in the principal case, points out that the word vessel has been interpreted liberally and broadly, including any structure used, or capable of being used, for transportation upon the water; for example, a canal boat drawn by horses, *The Robt. W. Parsons,* 191 U. S. 17; a bath house upon floats, *The Public Bath,* 61 Fed. 692; or a log raft, *The Mary,* 123 Fed. 609. On the other hand, although admiralty has extended its jurisdiction in the past so as to meet the needs of commerce, it will not extend its jurisdiction so as to include the navigation of the air, and an airplane, as such, is not a subject of maritime jurisdiction. *The Crawford Bros. No. 2,* 215 Fed. 269. Since a hydroplane is capable of being used for transportation upon the water or through the air, the court concludes that it is a vessel subject to admiralty jurisdiction while "it is in the fulfilment of its function as a traveler through the water, and has put aside its functions and capacities as a traveler through the air."

APPEAL AND ERROR—CHARGE TO JURY—PROXIMATE CAUSE.—Action for damages for personal injuries to plaintiff while attempting to board defendant's car. The car was suddenly started, and plaintiff was injured by striking the rear of a truck parked with a space of 16 inches between the rear of the truck and the car. Defendant claimed that, as the conductor had no knowledge that the truck was parked in the street, he could not anticipate that this accident would probably happen by the sudden starting of the car before plaintiff was safely aboard, and so his act was not the proximate cause of the injury. *Held,* sufficient that he should reasonably have anticipated that some injury might probably result, but judgment for plaintiff reversed for error in instruction as to proximate cause. *Kausch* v. *Chicago & Milwaukee Electric Ry. Co.* (Wis.), 186 N. W. 257.

This is one of those cases that make the Jack Cades want to kill all the lawyers and that cause outcries against the courts as tribunals of injustice. The action began (1) in the civil court of Milwaukee County, verdict

for plaintiff of $2000, (2) appeal to circuit court, (3) appeal to supreme court, reversed and remanded, (4) new trial in circuit court, judgment for $6500, set aside and new trial ordered, (5) second *new* trial in circuit court, judgment for $6000, (6) appeal to supreme court, reversed and remanded. It may be assumed that if plaintiff is not worn out there will be at least (7) third *new* trial in circuit court, and (8) third appeal to supreme court. And all for what reason? As to the present reversal, because, although the jury had answered "no" to the question, "Did the plaintiff at said time fail to use ordinary care for his own safety and thereby proximately contribute to produce his injury?" the judge in defining proximate cause included the phrase, "It likewise must have been the cause of the result without any other outside cause coming in to interfere and produce the result." This would shut out concurrent causes, which could do defendant no harm in this case, and also contributory acts of plaintiff. As the jury had already found defendant negligent, it would preclude also finding plaintiff negligent. At this day, after the thousands of cases involving and defining proximate cause, it is certainly a serious reflection on the administration of justice that a suitor on his sixth appearance in court should find that his action must start all over for error in definition of the most familiar terms in damages, the more so since in this case the judge had elsewhere correctly defined proximate cause, and the facts are so very simple, were so many times passed upon by juries, and always with the same result. On all the circumstances of this case, could the court find any probability that a different verdict would have been found if the correct definition of proximate cause which was already before the jury had been repeated here? If not, then this slight change should not have been held reversible error. Legal definition has sometimes been carried to such a complicated nicety as to conceal rather than reveal meaning, and to become a mere pitfall for the suitor in quest of justice rather than a light leading to the goal of legal procedure, justice.

APPEAL AND ERROR—GENERAL FINDING OF COURT WITHOUT JURY NOT REVIEWABLE.—In an action to recover penalties for the violation of a certain federal statute the trial court found as a fact that the defendant company was not engaged in interstate commerce and therefore not subject to the act upon which the complaint was based. A statute provided that findings of the court upon the facts should have the same effect as the verdict of a jury. The question was whether or not this finding of the court could be reviewed on appeal. *Held,* the finding of the trial court was conclusive and there was nothing to review. *United States* v. *Columbia & N. R. Co.,* 274 Fed. 625.

On appeal in equity, findings of fact made by the court below are entitled to some weight, but are not binding upon the appellate court. The whole case is before the latter court, and it must decide the same on its merits. *Quigley* v. *Beam,* 137 Ky. 325. In an action at law, findings of the trial court are placed on the same footing as the verdict of a jury, even in the